

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CHRISTOPHER BROUSSARD,

Plaintiff,

VS.

SA-21-CV-01238-OLG

FINWISE BANK, INC, A STATE OF UTAH CORPORATION; MULLIGAN FUNDING, LLC, A DELAWARE LIMITED LIABILITY COMPANY; MULLIGAN SENIOR, LLC, A DELAWARE LIMITED LIABILITY COMPANY; INNOVATIVE FUNDING SOLUTIONS, LLC, A DELAWARE LIMITED LIABILITY COMPANY; MARK LEIBOWITZ, DAVID LEIBOWITZ, ZACHARY STOLL,

Defendants.

ORDER TO SHOW CAUSE

Before the Court is the above-styled cause of action, which was referred to the undersigned for all pretrial proceedings [#7]. On this day the Court entered an order compelling arbitration of Plaintiff's claims against Defendants FinWise Bank, Mulligan Funding, LLC, Mark Leibowitz, and David Leibowitz. Plaintiff's claims against those Defendants are stayed pending completion of the arbitration proceedings. Plaintiff's claims against Innovative Funding Solutions, LLC, and Zachary Stoll remain pending before this Court. The docket does not indicate whether Defendants Innovative Funding Solutions, LLC, and Zachary Stoll have been served, and they did not join the Motion to Compel Arbitration.

Rule 4(m) of the Federal Rules of Civil Procedure requires service of process within 90 days after a complaint is filed. Fed. R. Civ. P. 4(m). If a plaintiff fails to serve process within that time, the Court must either dismiss the action without prejudice against the unserved defendants

or, if there is good cause for plaintiff's failure to serve, order that service be made within a specified time. *Id.* Furthermore, a district court may dismiss an action for failure to prosecute or to comply with any order of the court. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988) (per curiam); Fed. R. Civ. P. 41(b).

Based on a filing date of December 15, 2021, Plaintiff had until March 15, 2022, to serve his Complaint and summons on all Defendants. If Plaintiff has served his Complaint on Defendants Innovative Funding Solutions, LLC, and Zachary Stoll, he has thus far failed to file proof of service with the Court. Accordingly, the Court will order Plaintiff to show cause as to why Defendants Innovative Funding Solutions, LLC, and Zachary Stoll should not be dismissed for want of prosecution by filing an advisory with the Court demonstrating good cause for his failure to serve those Defendants. If Plaintiff has served Defendants Innovative Funding Solutions, LLC, and Zachary Stoll, he should file his proof of service. If Plaintiff has not yet served these defendants but is able to show good cause for his failure to comply with Rule 4(m), the Court will extend the time for service.

IT IS THEREFORE ORDERED that Plaintiff file his proof of service of Defendants Innovative Funding Solutions, LLC, and Zachary Stoll or an Advisory demonstrating good cause for his failure to serve Defendants Innovative Funding Solutions, LLC, and Zachary Stoll **on or before May 26, 2022.**

IT IS SO ORDERED.

SIGNED this 12th day of May, 2022.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE